

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10037 of 1995

AND

SPECIAL CIVIL APPLICATION NO.10048 of 1995

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For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No

JITENDRA HARILAL VASANI

Versus

AMRELI DISTRICTY PANCHAYAT

Appearance:

Special Civil Applications Nos.10037 and 10048 of 1995.

MR PJ KANABAR for Petitioner

MR HS MUNSHAW for Respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 11/04/96

COMMON ORAL JUDGMENT:

1. The petitioners have come with a grievance that the order dated 17-12-89 Annexure 'E' was not being implemented and they are not being treated as permanent

workcharge employees. These Special Civil Applications were filed in this Court on 27-11-95. When the matter came up before the Court on 12-12-95, notices were issued to respondents as to why these petitions may not be admitted and disposed of finally at admission stage. That order by itself is treated as Rule and Mr. Munshaw waives service of the Rule.

2. It has been pointed out by Mr. Munshaw that the order dated 25-4-94 had already been passed in favour of the petitioners so as to implement the Resolution Annexure "E" dated 17-12-89 and the present Special Civil Applications are wholly misconceived as the Resolution dated 17-12-89 stands already implemented with the passing of the order dated 25-4-94.

3. I called upon the learned counsel Mr. Kanabar as to why no reference was made to the passing of the order dated 25-4-94 in the pleadings of the Special Civil Applications. He has however submitted that in the pleadings the Reference was not made to this order dated 25-4-94, but the document was there on record as Annexure "H". He has further submitted that after the issue of the notices, as aforesaid, by this Court on 12-12-95, the petitioners had moved amendment applications dated 16-3-96 and on that basis he was allowed to make corrections in the exhibit marks and the pagings and accordingly the corrections were made in the document Annexure "H" and pagings wherever necessary. Mr. Munshaw appearing for the respondents has invited the attention of the Court to the document dated 25-4-94, which according to Mr. Kanabar is numbered with the petition as Annexure "J" on 16-3-96. This document makes it clear that in pursuance of the Government Resolution dated 17-12-89 this order dated 25-4-94 was issued in favour of the petitioners and accordingly the petitioners are being paid as permanent workcharge employees. The fact that the petitioners are paid the salary as permanent workcharge employees is not disputed even today by the learned counsel for the petitioners before this Court. However, he has raised the grievance that in other aspects, the petitioners are not being treated at par with the other permanent workcharge employees inasmuch as they are not being given the following benefits :

- (1) No independent charge of the beat and no permanent travelling allowance.
- (2) L.T.C.

(3) Group Insurance.

(4) Interim relief.

4. Mr. Munshaw has submitted that the order dated 25-4-94 meets the requirement of the payment of salary to the petitioners as permanent workcharge employees and the petitioners are being treated as permanent workcharge employees. So far as the question of independent charge of the beat and the permanent travelling allowance is concerned, it has been submitted that it depends upon the availability of the work and each and every permanent workcharge employee can not get the permanent travelling allowance unless and until he is placed with the independent charge of the beat, which depends upon the availability of the work and as and when such work is available, the petitioners shall also be given the independent charge of the beat and the permanent travelling allowance subject to the availability of the work. Regarding the L.T.C., Group Insurance and Interim Relief it has been submitted that all these items shall also be given to the petitioners in accordance with the Rules, Government Resolution dated 17-12-89 and the practice prevailing in the District Panchayat with regard to such employees. In fact, it is mentioned in the order dated 25-4-94 itself that all other benefits, as available to the permanent workcharge employees, shall be available to the petitioners in accordance with Rules. Once the respondent itself has stated that the order dated 25-4-94 has already been passed and the order dated 17-12-89 has been implemented, the writ petition cannot be maintained on an illusory grievance with regard to those matters which can not be claimed as a matter of right and the availability of which depends upon the availability of the work and the eligibility in accordance with the Government Resolution. No specific grievance with regard to independent charge of the beat, permanent travelling allowance, L.T.C., Group Insurance and Interim Relief was made in any part of the pleadings in the petition and, therefore, in view of the order dated 25-4-94 the respondent has not filed any parawise reply. The order dated 25-4-94 and the statement made by Mr. Munshaw furnish complete answer to the grievance raised by the petitioner. Accordingly I find no force in these Special Civil Applications. The same are hereby dismissed. Rule is hereby discharged in both the matters with no order as to costs.

